

STATE OF MICHIGAN
COURT OF APPEALS

In re BRUEHAN, Minors.

UNPUBLISHED

June 23, 2016

No. 331042

St. Clair Circuit Court

Family Division

LC No. 14-000277-NA

Before: MURPHY, P.J., and SAAD and BORRELLO, JJ.

PER CURIAM.

Respondent A. Bruehan appeals as of right the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (new adjudicatory conditions arose and were not rectified), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm to children if returned to parent's care). We affirm.

On appeal, respondent argues that the trial court clearly erred in finding clear and convincing evidence in support of the statutory grounds for termination and in finding that termination was in the best interests of the children. If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proved by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent has four children, the two oldest of whom are not in her custody nor the subject of these proceedings. Respondent received services in the past to address a variety of issues associated with her parenting of the two oldest children. With respect to these proceedings and the two youngest children, the record reflects that respondent has poor parenting

skills and mental health issues. A psychological evaluation disclosed a substance abuse issue as well. Respondent was provided with services, including an in-home worker to assist with parenting and life skills, anger management classes, individual counseling, psychiatric medication reviews, random drug screens, and parenting time. Respondent did not take her medication regularly and discontinued services in March 2015. She resumed services in August 2015, and was taking her medication, but had only seen her counselor five times and the counselor did not identify substance abuse as an issue being addressed. Respondent was also referred to anger management classes, but dropped out and never completed them. Respondent tested positive for marijuana four times in February, March, and April 2015. She provided a diluted screen in June 2015, and missed two screens in July. Respondent's income was not always sufficient to meet her needs and she only had a one-bedroom apartment for a family of four. Both children have special needs; DB has emotional problems and her acting-out caused respondent to lose her temper. TB has medical issues that respondent did not understand and did not accommodate when handling the child. Further, respondent missed numerous scheduled parenting-time visits and often left early when she did visit.

In sum, the evidence showed that respondent's mental health and parenting issues continued to exist, and because respondent had not shown significant progress after nearly a year, these conditions were not reasonably likely to be rectified within a reasonable time considering the children's ages. Therefore, the trial court did not clearly err in finding that § 19b(3)(c)(i) had been proved by clear and convincing evidence.

In addition, after entry of the initial dispositional order, a psychological examination revealed a substance abuse issue. This was to be addressed through individual counseling and monitored through random drug screens. Respondent discontinued counseling services in March 2015 and did not return until August. During the interim, she tested positive for marijuana four times, provided a diluted screen, and missed two other screens. This evidence showed that respondent had not overcome her substance abuse problem and that, considering her lack of progress after nearly a year, the condition was not likely to be rectified within a reasonable time considering the children's ages. Therefore, the record also supports the trial court's finding that § 19b(3)(c)(ii) had been proved by clear and convincing evidence.

Regarding § 19b(3)(g), the evidence showed that respondent was unable to provide proper care or custody for the children due to poor parenting skills and poor home management as well as domestic violence and mental health issues. She was provided with family visits and one-on-one assistance from a life skills worker to assist with parenting, but her skills never improved. She was referred to Community Mental Health for counseling and psychiatric medication reviews. Respondent, however, did not take her medication regularly and discontinued services in March 2015. She resumed services in August and was taking her medication, but had only seen her counselor five times. Respondent had a substance abuse problem, had difficulty managing her financial resources, had poor parenting skills, failed to regularly and fully exercise visitation, and had only a one-bedroom apartment for a family of four, which was found in disarray and in unsanitary condition. The record thus supports the trial court's finding that § 19b(3)(g) had been proved by clear and convincing evidence.

Regarding § 19b(3)(j), the record shows that respondent had poor parenting skills and never demonstrated significant improvement. She had a strained relationship with DB, whose

acting-out caused respondent to lose her temper. Respondent did not take TB's medical conditions seriously and had to be reminded how to hold him and not to toss him in the air. Given such evidence, the trial court did not clearly err in finding that the children were reasonably likely to be harmed if returned to respondent's home. The record supports the trial court's finding that § 19b(3)(j) had been proved by clear and convincing evidence.

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014); MCR 3.977(K). With respect to the trial court's best-interests determination, we place our focus on the children rather than the parent. *In re Moss*, 301 Mich App at 87. The trial court may consider such factors as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). At the time of the hearing, the children had been in foster care for just over a year. The trial court found that respondent's parenting ability never improved to the extent that she was able to take care of the children, both of whom had special needs. Both children received services to meet their needs and, given respondent's poor compliance with attending her own appointments, there was reason to believe that she would not be diligent in getting the children to their appointments. In addition, respondent did not have a strong bond with DB and did not understand TB's medical conditions. Also, respondent often missed visitations and regularly left early when she did visit. In sum, there was no clear error regarding the trial court's determination that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ William B. Murphy
/s/ Henry William Saad
/s/ Stephen L. Borrello